

Calendar No. 8

108TH CONGRESS
1ST SESSION**S. 153**

To amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2003

Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. GRASSLEY, Mr. SESSIONS, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JANUARY 30, 2003

Reported by Mr. HATCH, without amendment

A BILL

To amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft Penalty
5 Enhancement Act”.

1 **SEC. 2. AGGRAVATED IDENTITY THEFT.**

2 (a) IN GENERAL.—Chapter 47 of title 18, United
3 States Code, is amended by adding after section 1028, the
4 following:

5 **“§ 1028A. Aggravated identity theft**

6 “(a) OFFENSES.—

7 “(1) IN GENERAL.—Whoever, during and in re-
8 lation to any felony violation enumerated in sub-
9 section (c), knowingly transfers, possesses, or uses,
10 without lawful authority, a means of identification of
11 another person shall, in addition to the punishment
12 provided for such felony, be sentenced to a term of
13 imprisonment of 2 years.

14 “(2) TERRORISM OFFENSE.—Whoever, during
15 and in relation to any felony violation enumerated in
16 section 2332b(g)(5)(B), knowingly transfers, pos-
17 sesses, or uses, without lawful authority, a means of
18 identification of another person shall, in addition to
19 the punishment provided for such felony, be sen-
20 tenced to a term of imprisonment of 5 years.

21 “(b) CONSECUTIVE SENTENCE.—Notwithstanding
22 any other provision of law—

23 “(1) a court shall not place on probation any
24 person convicted of a violation of this section;

25 “(2) except as provided in paragraph (4), no
26 term of imprisonment imposed on a person under

1 this section shall run concurrently with any other
2 term of imprisonment imposed on the person under
3 any other provision of law, including any term of im-
4 prisonment imposed for the felony during which the
5 means of identification was transferred, possessed,
6 or used;

7 “(3) in determining any term of imprisonment
8 to be imposed for the felony during which the means
9 of identification was transferred, possessed, or used,
10 a court shall not in any way reduce the term to be
11 imposed for such crime so as to compensate for, or
12 otherwise take into account, any separate term of
13 imprisonment imposed or to be imposed for a viola-
14 tion of this section; and

15 “(4) a term of imprisonment imposed on a per-
16 son for a violation of this section may, in the discre-
17 tion of the court, run concurrently, in whole or in
18 part, only with another term of imprisonment that
19 is imposed by the court at the same time on that
20 person for an additional violation of this section,
21 provided that such discretion shall be exercised in
22 accordance with any applicable guidelines and policy
23 statements issued by the Sentencing Commission
24 pursuant to section 994 of title 28.

1 “(c) DEFINITION.—For purposes of this section, the
 2 term ‘felony violation enumerated in subsection (c)’ means
 3 any offense that is a felony violation of—

4 “(1) section 664 (relating to theft from em-
 5 ployee benefit plans);

6 “(2) section 911 (relating to false personation
 7 of citizenship);

8 “(3) section 922(a)(6) (relating to false state-
 9 ments in connection with the acquisition of a fire-
 10 arm);

11 “(4) any provision contained in this chapter (re-
 12 lating to fraud and false statements), other than this
 13 section or section 1028(a)(7);

14 “(5) any provision contained in chapter 63 (re-
 15 lating to mail, bank, and wire fraud);

16 “(6) any provision contained in chapter 69 (re-
 17 lating to nationality and citizenship);

18 “(7) any provision contained in chapter 75 (re-
 19 lating to passports and visas);

20 “(8) section 523 of the Gramm-Leach-Bliley
 21 Act (15 U.S.C. 6823) (relating to obtaining cus-
 22 tomer information by false pretenses);

23 “(9) section 243 or 266 of the Immigration and
 24 Nationality Act (8 U.S.C. 1253 and 1306) (relating
 25 to willfully failing to leave the United States after

1 deportation and creating a counterfeit alien registra-
 2 tion card);

3 “(10) any provision contained in chapter 8 of
 4 title II of the Immigration and Nationality Act (8
 5 U.S.C. 1321 et seq.) (relating to various immigra-
 6 tion offenses); or

7 “(11) section 208, 1107(b), or 1128B(a) of the
 8 Social Security Act (42 U.S.C. 408, 1307(b), and
 9 1320a–7b(a)) (relating to false statements relating
 10 to programs under the Act).”.

11 (b) AMENDMENT TO CHAPTER ANALYSIS.—The table
 12 of sections for chapter 47 of title 18, United States Code,
 13 is amended by inserting after the item relating to section
 14 1028 the following new item:

“1028A. Aggravated identity theft.”.

15 **SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PRO-**
 16 **HIBITION.**

17 Section 1028 of title 18, United States Code, is
 18 amended—

19 (1) in subsection (a)(7)—

20 (A) by striking “transfers” and inserting
 21 “transfers, possesses,”; and

22 (B) by striking “abet,” and inserting
 23 “abet, or in connection with,”;

24 (2) in subsection (b)(1)(D), by striking “trans-
 25 fer” and inserting “transfer, possession,”;

1 (3) in subsection (b)(2), by striking “three
2 years” and inserting “5 years”; and
3 (4) in subsection (b)(4), by inserting after “fa-
4 cilitate” the following: “an act of domestic terrorism
5 (as defined under section 2331(5) of this title) or”.

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